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Note verbale dated 16 October 2002 from the Permanent Mission of Kyrgyzstan to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Kyrgyz Republic to the United Nations presents its compliments to the United Nations Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to forward herewith the report of the Kyrgyz Republic on the implementation of paragraph 2 of Security Council resolution 1390 (2002) (see annex).

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Annex to the note verbale dated 16 October 2002 from the Permanent Mission of Kyrgyzstan to the United Nations addressed to the Chairman of the Committee

[Original: Russian]

Report of the Kyrgyz Republic to the Counter-Terrorism Committee pursuant to paragraph 2 of Security Council resolution 1390 (2002)

I. Introduction

The Kyrgyz Republic condemns terrorism in all its forms. Terrorism represents a threat to international peace and security.

The Government of the Kyrgyz Republic unconditionally condemned the barbaric terrorist acts perpetrated on 11 September 2001 in the United States of America, causing the death of a large number of completely innocent people and colossal material damage. Kyrgyzstan vehemently condemned such acts and expressed its firm support for the adoption of measures and specific actions at the national, regional and international levels in the fight against that evil. Kyrgyzstan followed up with practical steps to enable it to participate in the anti-terrorism coalition in ways that respond to the national interests of Kyrgyzstan, friendly States, regional allies and members of the Commonwealth of Independent States.

The Government of the Kyrgyz Republic took a decision for the stationing in its territory of the anti-terrorism coalition forces which took part in operation "Enduring Freedom".

The Government of the Kyrgyz Republic remains firmly convinced that the United Nations plays a leading role in global efforts to combat international terrorism. Accordingly, the Government of the Kyrgyz Republic welcomed the adoption by the Security Council of resolution 1373 (2001) and attaches priority to its implementation.

In the preparation of this report, consideration has been given to the guidelines for the submission of reports pursuant to paragraph 2 of resolution 1390 (2002) and the report is the outcome of the coordinated work of the government departments responsible for the elaboration, implementation and monitoring of national measures to combat all terrorist phenomena.

In that regard, the Kyrgyz Republic provides the following information relating to actions and measures taken or contemplated in our country, and also relating to the existing legal framework on the suppression of terrorism, in compliance with the obligations of all States as set forth in paragraph 2 of resolution 1390 (2002).

II. Implementation

The Security Council decides that all States shall take the following measures with respect to Usama bin Laden, members of Al-Qa`idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them, as referred to in the list created pursuant to resolutions 1267 (1999) and 1333 (2000) to be updated regularly by the Committee established pursuant to resolution 1267 (1999) hereinafter referred to as "the Committee":

(a) Freeze without delay the funds and other financial assets or economic resources of these individuals, groups, undertakings and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory;

In Kyrgyzstan, a law has been drafted and is currently being enacted, concerning suppression of the legalization (laundering) of income acquired by illegal means (drafted by the National Bank of the Kyrgyz Republic).

This law contains provisions prohibiting the use of the country's financial system for the legalization (laundering) of any illegally acquired income, and in certain circumstances, they may also be applicable to the financing of terrorist and extremist organizations. The law is currently under consideration by the Government of the Kyrgyz Republic.

The provisions of the Criminal Code of the Kyrgyz Republic relating to money-laundering (article 183 of the Criminal Code entitled "Legalization of funds or other property acquired by illegal means") may in certain circumstances already be applicable to the suppression of the financing of terrorist acts.

In addition, under the Bank and Banking Operations Act, the National Bank of the Kyrgyz Republic is authorized to exercise banking supervision for the period of the investigation into money-laundering; funds suspected of belonging to terrorist organizations may be frozen by the National Bank.

Thus, for the purpose of performing its functions in the regulation of banking operations, the National Bank of Kyrgyzstan is authorized to institute such measures as the following:

- Verify the operations of banks and their affiliates and branches or entrust such verification to independent auditors or auditing firms;
- Adopt preventive measures and sanctions provided for under the banking legislation;
- Suspend temporarily or prohibit the conduct of certain banking operations;
- Suspend temporarily or revoke a banking licence;
- Begin the liquidation process in the event of a bank's insolvency, in accordance with the legislation on bankruptcy.

Restrictions on certain types of banking operations are laid down by the legislation of the Kyrgyz Republic (Banks and Banking Operations Act).

Thus the National Bank of Kyrgyzstan is authorized to take a decision on the cessation or limitation of certain types of banking operations in the event that it detects violations in the activities of any bank, its affiliate, branch (company) or bank holding company in which:

- The bank has engaged in untrustworthy or inadmissible conduct in the course of its operations, or the National Bank has sufficient grounds to believe that the bank in question may have engaged in such conduct;
- The bank has violated banking legislation or economic norms, or the National Bank has sufficient grounds to believe that the bank in question may in the future violate banking legislation or the regulations or instructions of the National Bank.

Under the national legislation (in particular, the provisional arrangements for revoking the operating licence of banks in the Kyrgyz Republic and for the liquidation of banks, as laid down by resolution 5/7 of the Board of the National Bank of the Kyrgyz Republic of 25 February 1997), the National Bank is authorized to revoke the licence of a bank in the event that it:

- Participates or abets in a criminal activity;
- Carries on operations prohibited by the legislation in force;
- Does not comply with the requirements of the banking legislation.

The above-mentioned provisions of the national legislation make it possible to freeze funds suspected of belonging to terrorists, suspend or revoke the licence of banks involved in such unlawful activities, suspend the operations of banks that utilize funds acquired by illegal means or funds used for financing terrorism.

In order to prevent the use of the banking system of the Kyrgyz Republic for the financing of international terrorism, and also in compliance with the requirements of Security Council resolution 1390 (2002), paragraph 2, the National Bank of the Kyrgyz Republic has instituted the following measures:

1. On 16 October 2001, Mr. U. Sarbanov, Chairman of the Board of the National Bank of the Kyrgyz Republic, held a meeting with the heads of the commercial banks of the Republic, during which they were alerted of the possibility that bank accounts might be used for the financing of terrorist organizations, and emphasized the need to take adequate steps to strengthen control over operations falling into the "suspect" category;

2. Letters were sent to the commercial banks and the finance and credit institutions of the Kyrgyz Republic, containing a list of minimum requirements for the conduct of operations, in order to counter the legalization (laundering) of income acquired by illegal means and to suppress the financing of terrorism. The banks and the finance and credit institutions were required to submit their replies concerning measures taken in this matter to the National Bank by 1 November 2001;

3. Furthermore, the lists of members of Al-Qa'idah organization, the Taliban movement and other individuals, groups, undertakings and entities associated with them were sent to the commercial banks in accordance with the list created pursuant to Security Council resolutions 1267 (1999) and 1333 (2000);

4. During the period 22-26 October 2001, the National Bank conducted special investigations involving all commercial banks with a view to identifying bank accounts of international terrorist organizations and persons whose names appeared in the Security Council's list (see above);

5. The National Bank examined and endorsed a draft law of the Republic entitled "Accession to the International Convention for the Suppression of the Financing of Terrorism";

6. In order to ensure the security and reliability of the banking and payments system of the Kyrgyz Republic, to prevent the conduct of operations to legalize income acquired by illegal means and to assist in suppressing the financing of terrorism, the National Bank adopted resolution 20/12 of 26 April 2002, entitled "Requirements for identifying entities in offshore zones", under which all types of operations and any transactions of commercial banks involving entities in offshore zones are annulled, with the exception of operations and transactions involving entities in States and territories having the high standards of financial control established by the Bank of International Settlements, Basel, Switzerland;

7. The National Bank drafted a law on the suppression of the legalization (laundering) of income acquired by illegal means. The draft is currently being amended pursuant to the recommendations of the joint mission of 14-29 May 2002 under the IMF/World Bank Financial Sector Assessment Program. The draft law will also regulate matters involving suppression of the financing of terrorism.

The national security services of the Kyrgyz Republic are taking measures to prevent the use of funds and other financial assets or economic resources directly or indirectly for the benefit of the persons indicated, and to prevent the direct or indirect supply, sale or transfer to such persons of weapons or related materiel of any type.

Moreover, in September 2002 the Government of the Kyrgyz Republic informed the United Nations sanctions committee of its support for the inclusion of the Islamic Movement of Eastern Turkmenistan in the list of terrorist organizations whose financial assets must be frozen throughout the world.

(b) Prevent the entry into or the transit through their territories of these individuals, provided that nothing in this paragraph shall oblige any State to deny entry into or require the departure from its territories of its own nationals and this paragraph shall not apply where entry or transit is necessary for the fulfilment of a judicial process or the Committee determines on a case-by-case only that entry or transit is justified;

The National Security Service of the Kyrgyz Republic is taking measures to detect members of Al-Qa'ida organization and the Taliban and other persons linked to them and prevent their entry into the territory of Kyrgyzstan and transit through it.

Afzal Zhan and **Halik Dad**, nationals of Pakistan and Taliban supporters were thus detected. As a result of the measures carried out in accordance with the established procedure, Afzal Zhan's commercial activities were halted and he himself was expelled from the Kyrgyz Republic. Materials relating to Halik Dad have now been transmitted to the Osh municipal court for consideration in order to

resolve the question of halting his commercial activities and subsequently expelling him from the Republic.

All the structural subdivisions of the Kyrgyz Republic's Ministry of Transport and Communications have been informed of the requirements of paragraph 2 of Security Council resolution 1390 (2002). The managers of all air companies and air lines registered in the Kyrgyz Republic have been instructed not to sell air tickets in any ticket offices or branch offices to nationals of those States in respect of which a visa regime has been instituted, if they have no entry visa for the Kyrgyz Republic.

In addition, the Kyrgyz railway has instituted a procedure for drawing up transit documents for foreign nationals from risk countries at the Bishkek-2, Kara-Balta, Rybachye, Osh, and Dzhalal-Abad stations. Tickets are issued after authorization has been received from the law-enforcement agencies in accordance with the established procedure. Border customs control will be organized in the near future at the Kainda station.

In order to prevent members of international terrorist organizations (Al-Qa'ida, Taliban, the Free Turkistan Islamic Movement and others) from penetrating the territory of the Kyrgyz Republic and CIS member States, the Kyrgyz Ministry of Defence has organized cooperation with the Republic's power agencies for strengthening the protection of the State borders. For example, information is being exchanged on organizations and individual nationals involved with international terrorist organizations, for whom entry into the territory of the Kyrgyz Republic and CIS States is prohibited. Data received from the National Security Service, the Ministry of Foreign Affairs and the Ministry of Internal Affairs of the Kyrgyz Republic are transmitted to the sub-units that protect the State border and carry out border control.

The General Prosecutor's Office of the Kyrgyz Republic is carrying out specific measures to improve the coordination of actions taken by the special sub-units of the power structures in combating international terrorism and extremist organizations linked to it.

In particular, at the beginning of 2002, the directors of the National Security Service and the Ministry of Internal Affairs were sent instructions directing them to order subordinate services to devise and carry out a set of goal-oriented measures aimed at:

- Setting up a unified databank containing information on international terrorist and religious extremist organizations, their leaders and members, and persons connected with them;
- Analysing the state, growth and trends in the spread of extremism in the CIS countries and other States bordering on Kyrgyzstan;
- Identifying non-governmental structures and persons that provide support and financing to international terrorist and religious extremist organizations;
- Monitoring the activities of mosques opened in recent years for possible cooperation with terrorist and extremist organizations;
- Identifying arriving nationals of States where religious extremist movements are strong, determining the purpose of their arrival in the Kyrgyz Republic,

their activities, their circle of acquaintances, and carrying out other actions relating to international terrorist and religious extremist organizations.

In recent years, the Republic's law-enforcement agencies have noted a sharp increase in the activities of religious extremist organizations that propagandize Islamic fundamentalism. However, the existing normative base does not adequately correspond to the situation that has arisen and must be essentially updated since, in the current situation, the probability of inter-ethnic and inter-religious conflict constitutes the basic threat to the State's political stability and security.

Accordingly, in order to prevent the further spread of religious extremism, the General Prosecutor's Office has prepared a draft law on increasing liability for the commission of crimes **motivated by national, racial or religious hatred or enmity and for calling for the violent change of the constitutional order or the disruption of territorial unity.** At the present time, the draft law is being coordinated and subjected to expert legal examination in the ministries concerned.

In order to increase criminal liability for terrorism, a proposal has been submitted to supplement article 226 (terrorism) of the Kyrgyz Republic's Criminal Code by including punishment in the form of the death penalty and to introduce additional punishment in the form of confiscation of property in all sections of the article. A proposal has also been made to add to the aforementioned article of the Criminal Code a further section providing for criminal liability for "technological terrorism".

In 2000-2002 public prosecutors in the regions, the city of Bishkek and special prosecutor's offices were repeatedly sent instructions directing them to step up preventive measures aimed at halting the activities of extremist organizations and to take personal control of all criminal cases linked to the incitement of religious enmity and ensure proper prosecutorial supervision of them.

In accordance with the international treaties and the Criminal Procedure Code of the Republic of Kyrgyzstan, the General Prosecutor's Office carries out international cooperation with the law-enforcement agencies of other States relating to criminal cases under investigation. This is also done in the area of conducting separate investigative activities in their territory, transmitting materials in order to continue criminal prosecution and complying with extradition requirements. In monitoring legality in the investigation of cases, the General Prosecutor's Office accords unwavering attention to the quality of investigation in cases concerning crimes against public security, the foundations of the constitutional order and State security and those involving terrorism.

In accordance with the work plan of the General Prosecutor's Office for the first half of 2002, the practice followed by law- enforcement agencies in combating manifestations of religious extremism in the Republic in 2001 has been generalized.

On the basis of the results of this generalization of practice, information was sent to the Kyrgyz Prime Minister explaining the work carried out and containing specific proposals to prevent the further spread of religious extremism in the Kyrgyz Republic.

The Republic's General Prosecutor's Office is continuing to carry out a set of measures aimed at combating international terrorism and religious extremism.

According to information from the Immigration Service Department, 9,405 persons, including 839 from Afghanistan, received refugee status in Kyrgyzstan in 2001.

In order to take adequate measures to prevent the emergence of foreign extremist movements such as Wahhabism, the Hizb ut-Tahrir religious extremist party and others, the Republic's internal affairs bodies do not draw up invitations or extend visas for inhabitants of Afghanistan and, comprehensive, goal-oriented work is being conducted to prevent and halt the supply, sale and transfer of all types of weapons, ammunition and other military equipment to individuals, groups, undertakings and entities from its territory or by its nationals outside its territory or with the use of airplanes or other aircraft.

The activities of the Hizb ut-Takrir religious extremist party have noticeably increased recently and are of a clandestine nature. Although Hizb ut-Takrir members previously distributed their leaflets openly and in crowded places, at the present time, fearing arrest, they have adopted a more covert approach for distributing them.

In 2001, Kyrgyz internal affairs branches detected:

- 112 instances of the spreading of religious enmity;
- 86 criminal proceedings were instituted in connection with these instances;
- 138 persons were charged with criminal liability;
- 1,245 persons were placed on preventive registration.

The following religious extremist materials were confiscated:

- 9,114 leaflets;
- 112 audio and video cassettes;
- 538 books and newspapers;
- 3 computers;
- 1 printer;
- 11 computer diskettes.

Since January 2002, 18 instances of the spreading of religious enmity have been detected. In connection with them, 15 criminal proceedings have been instituted and 24 persons arrested.

Under decision No. 57 of 7 February 2002 of the Government of the Kyrgyz Republic, a draft law on foreign migration was submitted for consideration to the Zhogorku Kenesh of the Kyrgyz Republic. Pending the adoption of the law, order No. 99 of 7 March 2002 of the Ministry of Internal Affairs was issued exempting foreign nationals and stateless persons from registration with the internal affairs bodies, in accordance with a list which includes 28 States.

(c) Prevent the direct or indirect supply, sale and transfer, to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the

aforementioned and technical advice, assistance, or training related to military activities;

In accordance with decision No. 1101-1 of 8 June 1998 by the Zhogorku Kenesh, the Legislative Assembly, the import and export of the following items are subject to licensing in the Kyrgyz Republic:

- arms and military equipment, special spare parts for their manufacture, work and services in the field of military technical cooperation, and also means of defence;
- protective equipment for defence against combat poisonous substances, and parts and accessories for them;
- normative technical documentation on production for military purposes (relating to manufacture and use);
- equipment for conducting combat operations, and ammunition.

The Republic's Ministry of Defence is the expert authority and the Ministry of Foreign Trade and Industry is the licensing authority for the aforementioned specific goods.

In 2001, the Ministry of Foreign Trade and Industry received no applications from juridical or physical persons with regard to the supply of the above-mentioned goods to the territory of the Republic of Afghanistan.

The Ministry of Defence of the Republic of Kyrgyzstan has not carried out any direct or indirect supply, sale or transfer of arms or military equipment to persons who support the Taliban or Al-Qa'ida network.

With regard to the export of arms and military equipment, it should be pointed out that the current legislation of the Kyrgyz Republic has laid down a procedure for conducting foreign-trade activities and has also established a list of States to which the export of materiel is permitted and a list of materiel authorized for transfer to foreign States. In addition, the Kyrgyz Ministry of Defence has drawn up a draft law on export control. At the present time, it is being considered in first reading by the Zhogorku Kenesh.

In connection with paragraph 8 (b) of Security Council resolution 1333 (2000) and the fact that the Council decided to terminate the measures provided for concerning Ariana Afghan Airlines (which is no longer owned, leased or operated by or on behalf of the Taliban), the Ministry of Transport and Communications of the Kyrgyz Republic gave instructions to the bodies that plan and service Kyrgyzstan's air traffic to provide the Afghan airline, at its request, with the necessary list of land and air services.